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## **Position Statements related to Nursing, Registered Nurses, and Advanced Practice Nurse Prescribers Issued by the Board of Nursing**

### **1. WHAT IS THE NURSE LICENSE COMPACT?**

The Nurse Licensure Compact is a mutual recognition model of nurse licensure allowing a nurse to have one license (in his or her state of residency) and to practice in other states (both physical and electronic), subject to each state's practice law and regulation. This applies only to RN/LPN licensees. Under mutual recognition, a nurse may practice across state lines without seeking individual licensure in that state as long as the state has also ratified the compact. This is referred to as a multi-state nurse licensure model, specifically referred to as the Nurse Licensure Compact (NLC). All states that currently belong to the NLC, also operate the single state licensure model for those nurses who do reside legally in a NLC state or do not qualify for multi-state licensure.

Helpful information on the compact can be found on the NCSBN website, <https://www.ncsbn.org/3501.htm>. Wisconsin is a member of the NLC.

Statutes pertaining to the NLC can be found in Ch. 441.50, Stats (Subchapter II).

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### **2. CAN I HAVE BOTH A COMPACT AND A NON-COMPACT LICENSE?**

Yes. The Nurse Licensure Compact requires the nurse to be domiciled in a compact state, however. Domicile is defined as the place where a person has their true, fixed and permanent home and to which whenever they are absent they have the intention of returning. A few factors that can be used to determine domicile are as follows:

- Payment of state income taxes
- Exercising voting rights (either by absentee ballot or in-person) Maintenance of state driver's license
- Legal declaration of the state as your domicile
- As long as a nurse's domicile is in a compact state, they can have a multi-state license, allowing them to practice in another compact state. If they wish to practice in a non-compact state, they will need to follow the licensure procedures of that state to obtain a single state license.

Additionally, if a nurse changes domicile from one compact state to another, they will need to pursue a new multi-state license based in the new state of their legal domicile. Ch. 441.50(4)(c)

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### **3. I AM TRAVELLING WITH A PATIENT THROUGH WISCONSIN; DO I NEED TO OBTAIN A WISCONSIN LICENSE IN ORDER TO DO THIS?**

Generally, if you do not have a multi-state license, you would need to obtain a Wisconsin license from the Board of Nursing to practice within this state. There is however an exception for those that may be travelling through the state for short periods of time. Ch 441.115, Stats allows for temporary practice of no more than 72 consecutive hours with prior notification to the Board. Certain exceptions apply; please review the Statute for complete information.

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### **4. HOW DO I KNOW IF A GIVEN FUNCTION IS WITHIN MY SCOPE OF PRACTICE AS AN RN/LPN?**

The Wisconsin Board of Nursing does not publish or maintain a “task” or procedure list regarding scope of practice. The standards of practice can be found in Ch N6, Wis. Admin. Code. If a procedure generally falls within the definitions of a nursing act and the nurse has the required education, training or experience to perform the procedure, it may be deemed appropriate within their scope of practice to perform. You may also find it useful to consult the Scope of Practice Decision Tree: Guidelines for RN and LPN Practice as well as other professional resources and organizations.

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### **5. IF I AM GIVEN A PHYSICIAN’S ORDER TO ADMINISTER A MEDICATION TO A PATIENT AND I HAVE KNOWLEDGE THAT THE MEDICATION COULD CAUSE AN ADVERSE REACTION AND AN EVENT OCCURS, WHO IS RESPONSIBLE, THE PHYSICIAN OR THE NURSE?**

In a situation such as the above, it is highly recommended that you review the standards of practice for registered nurses in Ch N6.03 (2)(c), Wis. Admin. Code. This rule requires an RN to “consult with a physician” if he/she “knows or should have known” that a delegated medical act may harm a patient. Similarly, the definition of negligence in Ch N7.03 (1)(e) states that it is a substantial departure from the standard of care for a nurse to execute a medical order which the licensee know or should have known would harm or present the likelihood of harm to a patient. If a nurse has this information and does not bring it to the attention of the treating physician(s), this could have serious implications for licensure.

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**6. I AM A NURSE LIVING OUTSIDE OF WISCONSIN (AND ALSO NOT IN A COMPACT STATE). DO I NEED A WISCONSIN NURSING LICENSE TO PROVIDE TELEPHONE TRIAGE OR CARE MANAGEMENT TO A PATIENT THAT RESIDES IN WISCONSIN?**

Yes, a Wisconsin license is required. Nursing practiced over the phone is considered the practice of nursing in Wisconsin, and in order to conduct these activities, a Wisconsin license or a multi-state compact license is necessary. The act of interstate tele-nursing is not allowed in Wisconsin, unless a nurse holds an appropriate multi-state license. Ch. N5.03, Wis. Admin. Code.

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**7. DOES A COLLABORATING PHYSICIAN NEED TO BE WITHIN A CERTAIN SPECIALTY (ADVANCED PRACTICE NURSE PRESCRIBERS)?**

Existing regulations only specify collaborating with licensed physician. However, per Ch N8.10 (7) Wis. Admin. Code it should be someone who is capable delivering health care services within the scope of the practitioner's professional expertise. Refer to Wis. Admin. Code N8.10 (7) for further information.

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**8. AS AN APNP, DOES THE NURSE LICENSURE COMPACT COVER ME?**

No. Currently the Nurse Licensure Compact only covers RN and LPN licenses.

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## **9. ADMINISTRATION OF METHADONE BY LICENSED PRACTICAL NURSES**

The Wisconsin Board of Nursing has been asked to provide an opinion on whether it is within the scope of practice of a licensed practice nurse (L.P.N.) to administer methadone in a narcotic maintenance treatment program. Secondly, if it is within the scope of practice of an L.P.N. to administer methadone, what level of supervision would be legally required of the L.P.N.? The following analysis represents the Board of Nursing's position regarding the interpretation of the administrative code governing the standards of practice of the L.P.N.1

The scope of practice for licensed practical nurses is set forth in Chapter N6.04, Wis. Admin. Code. The code delineates two categories of practice for the L.P.N.; basic patient situations and complex patient situations. The following provisions in N6.04 (1) apply to the standard of practice of an L.P.N. in basic patient situations.

### **PERFORMANCE OF ACTS IN BASIC PATIENT SITUATIONS.**

Note: This paper does not represent an analysis of any state or federal laws or regulations which may govern the certification or operation of a narcotic maintenance treatment program or the personnel who are authorized health care providers in such programs.

In the performance of acts in basic patient situations, the L.P.N. shall, under the general supervision of an R.N. or the direction of a physician, podiatrist, dentist or optometrist;

- a) accept only patient care assignments which the L.P.N. is competent to perform;
- b) Provide basic nursing care;
- c) Record nursing care given and report to the appropriate person changes in the condition of the patient;
- d) Consult with an R.N., physician, podiatrist, dentist or optometrist in cases where an L.P.N. knows or should know a delegated nursing or medical act may harm a patient; and
- e) Perform the following other acts when applicable:
  - Assist with the collection of data;
  - Assist with the development and revision of a nursing care plan;
  - Reinforce the teaching provided by an R.N., physician, podiatrist, dentist or optometrist and provide basic health care instruction; or
  - Participate with other health care team members in meeting basic patient needs.

### **PERFORMANCE OF ACTS IN COMPLEX PATIENT SITUATIONS**

The following provisions in N6.04 (2) apply to the standard of practice of the L.P.N. in complex patient situations.

In the performance of acts in complex situations the L.P.N. shall:

- a) Meet standards under sub. (1), under the general supervision of an R.N., physician, podiatrist, dentist, or optometrist.
- b) Perform delegated nursing or medical acts beyond basic nursing care under the direct supervision of an R.N., physician, podiatrist, dentist, or optometrist. An L.P.N. shall, upon the request of the board, provide documentation of his or her nursing education, training or experience which prepares the L.P.N. to competently perform these assignments.

The scope of practice of the L.P.N encompasses a range of patient care situations and is not static. The L.P.N. may perform duties beyond basic nursing care if such duties are consistent with his or her educational preparation. The L.P.N. may also perform additional duties pursuant to the orders of a licensed physician, optometrist, podiatrist, dentist or registered nurse. The scope of practice of the L.P.N., changes as knowledge, technology and developments occur in the health care field. Fundamentally, the L.P.N. must have the requisite education, training and experience to perform the delegated duties whether the nursing care is described as basic or complex.

The administration of methadone falls within the realm of basic patient care if the patient's medical condition is stable and the dosing level is not frequently changing. In basic patient care situations, the L.P.N. administers the medication dose, witnesses the consumption of the dose, and observes and records the administration. In basic patient care situations, the administration of methadone shall be performed by the L.P.N. under the general supervision of a physician or registered nurse. General supervision means to regularly coordinate, direct and inspect the practice of another; it does not require that the supervising health care provider be available on-site at all times.

In other situations when the patient is not stable, such as during the induction phase of a narcotic maintenance treatment program, or when the patient is non-compliant with treatment or has other co-morbidities, the administration of methadone may constitute a complex patient situation that requires the performance of delegated medical or nursing acts beyond basic care nursing care. The L.P.N. who administers methadone in a complex patient situation shall be under the direct supervision of a physician or registered nurse. Direct supervision requires immediate availability to continually coordinate, direct and inspect at first hand the practice of another. Direct supervision has been generally defined as on-site presence, access or communication within a relatively short time period.

The role of the L.P.N. in administering methadone represents merely one aspect of the continuum of care for the patient in a narcotic maintenance treatment program – the administration of the medication. The L.P.N. cannot act independently or be required to make an assessment, diagnosis or treatment decision. The necessity of precisely adhering to the written protocols for administration and the reporting of any change in a patient's condition are imperative. The L.P.N. must be either under the general or direct supervision of another health care provider, such as physician or registered nurse, who has the knowledge, skill and ability to coordinate, direct and inspect the L.P.N. practice. The level of supervision will vary according to the complexity of the patient care involved.

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## **10. POSITION OF THE WISCONSIN BOARD OF NURSING ON APNP VERBAL ORDERS**

It is the position of the Board of Nursing that verbal or telephone orders issued by an Advance Practice Nurse Prescriber (APNP) may be further communicated as necessary by other nursing personnel appropriate for the setting where the order was issued. The APNP who gives a verbal or telephone order must validate that order in writing within the timeframe appropriate for the setting.

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### **11. I have a complaint about my nursing program or wish to appeal an academic decision. Can the Board Nursing respond to my complaint?**

The Board of Nursing approves programs to provide nursing education under continuation of their program approval status based on guidelines established under ss. N 1.04, 1.05 and 1.06, Wis. Admin code. If a program fails to meet those guidelines, the Board may place the program on probation status.

For institutions approved by the state's Educational Approval Board (EAB), you can contact EAB about your complaint. A list of EAB-approved schools and details pertaining to filing complaints are available from the EAB's website at <http://eab.state.wi.us>

The Wisconsin Board of Nursing should not be the first place to seek redress on complaints about your nursing program; instead, students with complaints about their program should first seek to resolve their complaint with the school. While the Board of Nursing has authority under chapter 441 of the Wisconsin Statutes to regulate nursing programs, the regulation is limited to the confines of chapter N1 of the Wisconsin administrative code. In addition, it is the Board's experience that most, if not all accredited or EAB-schools have policies and procedures to address student complaints.

Examples of complaints that may come under the Board of Nursing purview would include the following: providing false or misleading information to students or the public concerning the nursing program, inadequate number of clinical placement sites, inadequate supervision of clinical laboratory learning experiences, and inadequate number of academically and professionally qualified faculty. Student complaints about grading procedures and student/teacher conflicts may not fall under the authority of the Board.

If you do not have information about your school's complaint resolution or academic appeals procedures, please seek to obtain information from the school. Information should be available from a number of sources, including a school catalog, academic advisor, student services, Dean of students, and Dean of the nursing program

If you have a complaint about the professional conduct of a nurse in your academic program, the Board may have jurisdiction based on the nature of your complaint. If the Nurse appears to have violated professional standards under chapter N6 or rules of conduct under chapter N7 of the Wisconsin Administrative Code, the Board of Nursing requests that you file a complaint with the Department of Safety & Professional Services. On the front page of the Department's Website at <http://dsps.wi.gov/> you will find information about complaints under the heading "Complaints and Inspections". The appropriate forms can be found by clicking here.

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## **12. Pain Management**

Safe and competent care of the management of pain involves appropriate and effective assessment by the professional nurse. Under treatment of pain continues to be a major public health problem.

Inadequate pain control may result from nurses' lack of knowledge about pain assessment and management and/or their misunderstanding of the safety and efficacy of opioid analgesics, drugs that are essential for the management of moderate to severe pain.

The Board of Nursing recognizes that the profession nurse shares in the responsibility for the assessment and management of pain. The Board encourages professional nurses to view effective pain management as part of nursing practice for all patients with pain, whether it is acute or chronic. It is especially important for patients who are experiencing pain at the end of life. Professional nurses should be knowledgeable about the safe and effective methods of pain management as well as the statutory requirements related to the use of controlled substances.

The Board recognizes that opioid analgesics are subject to abuse by individuals who seek them for mood altering and other psychological effects rather than for legitimate medical purposes. The professional nurse who administers these drugs in the course of treatment should be diligent and incorporate established safeguards into their practices to minimize the potential for abuse and diversion of controlled substances.

The Board also recognizes that opioids can cause life-threatening respiratory depression if they are not administered at appropriate doses and at appropriate dosing intervals. Nurses should be knowledgeable about the signs and symptoms of impending respiratory depression and about the risk factors that increase the likelihood of the occurrence of this drug side effect. However, excessive and inappropriate concerns about respiratory depression should not lead to nursing practices that deprive patients of doses needed for effective pain control, especially to those patients who are experiencing pain at the end of life.

The Board of Nursing is disseminating this white paper to support and encourage safe, competent and high quality nursing care for persons with pain.

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## **13. PATIENT ABANDONMENT**

The Wisconsin Administrative Code and the Rules and Regulations that govern the practice of nursing do not specifically define the term "abandonment". Abandonment falls under the general category of misconduct or unprofessional conduct. Misconduct or unprofessional conduct is defined in N7.04 of the Rules and Regulations. It states, "misconduct or unprofessional conduct" means any practice or behavior which violates the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public".

The Board of Nursing (BON) has been asked to describe some of the circumstances where a nurse's actions would be considered misconduct or unprofessional with regard to abandonment and thereby subject to discipline. The BON considers each complaint individually, examining the circumstances and facts of the situation as it pertains to the involved licensees, including the nurse who is assigned to provide care and the nurses who supervise or manage the staff.

When reaching a decision on whether misconduct has occurred, the BON will consider, but is not limited to the following:

- Generally, for patient abandonment to occur, did the nurse first accept the patient assignment?
- Was sufficient notice given to a manager or other responsible individual, including client in a home care setting, of the nurse's intent to cease providing nursing care such that arrangements could be made to assure continuity of nursing service?
- Did the nurse report essential patient information to an appropriate person?
- What were the issues or reasons that the nurse would not accept or continue an assignment?

The BON has determined that it will not consider employment issues over which the BON has no jurisdiction. An example may be a nurse refusing to remain on duty for an extra shift or partial shift beyond his/her established schedule.

The primary responsibility of the BON, relative to licensees who practice nursing, is public safety. All investigations of complaints focus on patient safety. The actions and conduct of licensees are determined to be or not to be negligent or unprofessional based on what actions a reasonable and prudent nurse would take in the same or similar circumstances.

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#### **14. USE OF SOCIAL MEDIA BY NURSES**

The Board of Nursing recognizes the increasing prevalence and use of social media and other electronic social networking (Facebook/Twitter/LinkedIn/You Tube) by nurses. Social media and networking can be a positive professional communication tool for nurses and can enhance the provision of nursing services. These online networks facilitate the rapid exchange and dissemination of information in a public or semi-public forum. However, the use of social media may also have unintended negative impacts in the health care context involving patient privacy and confidentiality of patient-related health care information.

Any patient information learned by the nurse during the course of treatment must be safeguarded by that nurse and may only be disclosed to other members of the health care team who are directly involved in the patient's care and only for health care purposes.

Confidential information may only be shared with the patient's informed consent, when legally required or where failure to disclose the information could result in significant harm. Nurses are also required to observe the professional boundaries of the patient-nurse relationship. The ethical standards of professionalism apply equally to online contact and in the online network environment as to face-to-face contact.

Federal law reinforces and further defines patient privacy through the Health Insurance Portability and Accountability Act (HIPAA). The federal law defines individually identifiable information and establishes how this information may be used, by whom and under what circumstances. Breaches of patient confidentiality or privacy can be intentional or inadvertent and can occur in a variety of ways. Common situations involved the use of computers, cell phones, cameras and other electronic devices for on-line posting or dissemination through social media. Nurses have violated the standards of professional conduct by taking photos or videos of patients any patient information, or making disparaging remarks about patients, even if they are not identified

The Wisconsin Administrative Code, Chapter N7.04(10) defines the breach of patient privacy and confidentiality in the following manner "revealing to other personnel not engaged in the care of the

patient or to members of the public information which concerns a patient's medical condition unless release of the information is authorized by the patient or required or authorized by law."

The Wisconsin Administrative Code, Chapter N7.04 (1), also defines unprofessional conduct as including the violating, aiding or abetting a violation of any law substantially related to the practice of professional nursing. This would apply in situations which involve violations of health care laws such as HIPAA. Thus, a nurse in Wisconsin may be subject to disciplinary action by the Board of Nursing for transmitting or discussing online individually identifiable patient information, including posting or sending photos or videos or other health care records of the patient, unless authorized by law. In addition, a nurse may be found to violate professional nurse-patient boundaries through online contact with patients.

The American Nurses Association (ANA) and the National Council of State Board of Nursing (NCSBN) have recently published materials which address the pitfalls and potential negative consequences of the use of social media in the nursing profession.

The ANA has an e- publication, "ANA Principles for Social Networking and the Nurse," that provides guidance to registered nurses on using social networking media in a manner that protects the patient's privacy, confidentiality and inherent dignity.

<http://www.nursingworld.org/FunctionalMenuCategories/AboutANA/Social-Media/Social-Networking-Principles-Toolkit.aspx>

The NCSBN has published a white paper, "A Nurse's Guide to the Use of Social Media," which contains examples of illustrative cases depicting inappropriate uses of social and electronic media. These publications are accessible free of charge through the ANA and NCSBN internet websites. The members of the nursing profession are encouraged to review these useful materials for further guidance.

[https://www.ncsbn.org/Social\\_Media.pdf](https://www.ncsbn.org/Social_Media.pdf)

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## **15. Telephone Triage**

In certain health care settings, RN's and LPN's are performing telephone triage. This practice involves providing guidance to clients who call the clinic regarding health problems or symptoms, which concern them. The advice given by the triage nurse may relate to coming to the clinic, remaining at home and monitoring symptoms, or following a treatment regimen approved by the health care provider.

It is the position of the Board of Nursing that nurses performing telephone triage should be acting according to mutually accepted protocols with a physician, dentist, podiatrist, or optometrist. The board has taken the position that the act of medical diagnosis itself cannot be performed by a nurse as a delegated medical act. The advice or information provided by the triage nurse should not involve medical diagnosis, but should follow the protocols or standing orders of the physician, dentist, podiatrist, or optometrist.

Under sec. 441.11(4), Stats., and sec. N 6.03(1)(a), Code, the function of assessment is performed by the RN. Under sec. N 6.04(1)(e), Code, the LPN may assist with the collection of the data. The board has taken the position that the functions of assessment and evaluation cannot be delegated by the RN to the LPN. Accordingly, LPN's performing telephone triage must do so only in an assistive capacity under the supervision of the RN, physician, dentist, podiatrist, or optometrist.

The board recommends that the triage nurse provide callers with information regarding all options for treatment, including coming into the clinic, going to the nearest hospital or calling 911. In addition, the board recommends that the triage nurse document and name specifically which protocols or standing

orders are used in providing guidance to the client based on the information gathered from the caller. The board also recommends documenting the response of the caller to the information provided.

This position statement does not address the scope of practice of advanced practice nurses.

**Revised 04/11/2013**

## **16. Use of Nurse Technicians**

The Nurse Technician (extern,intern) always functions under the direct supervision of the registered nurse. Under s. N6.02 (6), Wisconsin Administrative Code, direct supervision means immediate availability to continually coordinate, direct and inspect at first hand the practice of another. This has been interpreted by the board to require that the supervising RN must be in the same facility as the nurse technician.

Under s. N6.03 (3), Wisconsin Administrative Code, the supervising RN may delegate acts within the scope of professional nursing to the Nurse Technician, provided the RN does the following:

- Delegates tasks commensurate with educational preparation and demonstrated abilities of the Nurse Technician;
- Provides direction and assistance to the Nurse Technician;
- Observes and monitors the activities of the Nurse Technician; and,
- Evaluates the effectiveness of acts performed by the Nurse Technician

The Board of Nursing cautions RN's, agencies and facilities that the Nurse Technician is not licensed to practice nursing either as an RN or LPN. The Nurse Technician performs tasks delegated to him or her by the RN under direction supervision. While tasks or procedures may be delegated to the Nurse Technician, the functions of assessment and evaluation may not, including the preparation or alteration of a plan of care. The Nurse Technician may assist the RN in these functions, but may not perform them in their entirety.

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